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08/765,324 APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NO.

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DUFFY, P

ART UNIT PAPER NUMBER

> 1818 3

EXAMINER

DATE MAILED:

09/24/97

This is a communication from the examiner in charge of your application. COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY	
Responsive to communication(s) filed on	·
This action is FINAL.	
☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 D.C. 11; 453 O.G. 213.	
A shortened statutory period for response to this action is set to expire whichever is longer, from the mailing date of this communication. Failure to respond with the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be ob 1.136(a).	month(s), or thirty days, thin the period for response will cause tained under the provisions of 37 CFR
Disposition of Claims	
▼ Claim(s)	is/are pending in the application.
Of the above, claim(s)	
☐ Claim(s)	
☐ Claim(s)	is/are rejected.
☐ Claim(s)	is/are objected to
X Claims 1-44 are s	subject to excitation or election requirement.
Application Papers	·
☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.	
☐ The drawing(s) filed on is/are objected to by the Examiner.	
☐ The proposed drawing correction, filed on	
☐ The specification is objected to by the Examiner.	
☐ The oath or declaration is objected to by the Examiner.	
Priority under 35 U.S.C. § 119	
Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).	
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been	
received.	
received in Application No. (Series Code/Serial Number)	
received in this national stage application from the International Bureau (PCT Rule	e 17.2(a)).
*Certified copies not received:	
Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).	
Attachment(s)	•
☐ Notice of Reference Cited, PTO-892	·
Information Disclosure Statement(s), PTO-1449, Paper No(s).	
Interview Summary, PTO-413	
Notice of Draftsperson's Patent Drawing Review, PTO-948	
Notice of Informal Patent Application, PTO-152	



Serial Number: 08/765,324

Art Unit: 1818

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-39, 41 and 42, drawn to a composition comprising an antibody which binds a stable conformational independent epitope present on a lipoprotein or apolipoprotein and is uninfluenced by the lipid content which defines the special technical feature, a first method of making the composition and a method of using the composition to determine the concentration of a lipoprotein or apolipoprotein in a sample.

Group II, claim(s) 40, 43 and 44, drawn to a second method of using the composition to purify the lipoprotein or apolipoprotein.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The claims of Group II represent a second method of use of the special technical feature as defined above. The method of Group II has different method steps and has a different final outcome as compared to the methods of Group I which are drawn to a method of determining the concentration of a specific lipoprotein or apolipoprotein. Thus, the methods of Group I and II, do not relate to a *single* inventive concept pursuant to PCT Rule 13.1 because the rules do not provide for examination of multiple different methods of use the special technical feature.



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3. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

- 4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).
- 5. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Group 1800 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, it is recommended that the current FAX number for Group 1800 be obtained from the Group receptionist whose telephone number is (703) 308-0196.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia A. Duffy, Ph.D. whose telephone number is (703) 305-7555. The examiner can normally be reached on Monday-Friday from 6:30 AM to 3:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Hutzell, can be reached at (703) 308-4310.

Patricia A. Duffy, Ph.D. September 22, 1997

Patricia A. Duffy, Ph.D. Patent Examiner Group 1800